THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 203 of 2000

O r d e r:

Challenging the action of the respondents in not counting the seniority of the petitioner from the date of his initial appointment and not granting 12 years special grade increment, the present writ petition is filed.

The petitioner claims to have appointed as Conductor of the respondent-Corporation with effect from 01.07.1987 at Bhadrachalam Depot, and on his request, in the year 1993, he was transferred to Tiruvuru Depot, Krishna District. The case of the petitioner is that as per the Regulation 3 (a) of the A.P. State Road Transport Corporation Employees (Service) Regulations, 1964, his seniority should be reckoned from the date of his initial appointment as Conductor in the Corporation and not from the date of joining in the transferred unit. He further states that as he has completed 12 years of service in the Corporation, as per the instructions in Circular No. PD 73 of 1990, dated 26.05.1990, he is entitled and eligible for special grade increment.

The grievance of the petitioner is that he made several representations requesting the respondents to count his seniority from the date of his initial appointment and to grant 12 years special grade increment, but, no action has been taken by the respondents. He placed reliance on the judgment of this Court in W.P. No. 1885 of 1993, dated 09.07.1998, and sought for similar directions as made therein.

A counter affidavit is filed by the respondent-Corporation. The learned Standing Counsel reiterating the counter-averments stated that the petitioner was transferred to Krishna District on his own request and on a condition that he would forego his past seniority in the cadre of Conductor Grade-II in Khammam Division. It is stated that as per the Circular No. PD 65/89, dated 03.05.1989, the special grade increment will be provided to the employees those who have completed 12 years of service in a particular category without promotion and since the petitioner was transferred on his own request and on a condition that he would forego his past seniority in the cadre of Conductor Grade-II in Khammam Division, the above circular is not applicable to the petitioner and he is not entitled for the special grade increment. It is further stated that Regulation No.3 of A.P. State Road Transport Corporation Employees (Service) Regulation, 1964, with regard to seniority, has been amended vide notification No. PD 18/99, dated 29.05.1999 of Chief Personnel Manager, Hyderabad, which reads thus.

"If any employee is willing to relinquish the right of his seniority in the post

> held by him in the seniority unit in which he is working and he is willing to join on transfer on another seniority unit at his request, it shall be treated as a first appointment for transferred employee for the purpose of seniority and he will become junior most in the seniority unit to which transferred on request. His seniority shall be reckoned from the date of his joining on transfer in the later, seniority unit."

It is further stated that as per the said amendment, since the petitioner was transferred on his own request from Khammam Division to Krishna Division on the condition that he would forego his seniority in the earlier unit, he become junior most in Krishna Division and he cannot claim to reckon his seniority from the date of his initial appointment. He relied on the judgment of the Division Bench of this Court in W.A. No. 1391 of 1998, dated 19.12.2000.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents-Corporation.

Though the learned Standing Counsel for the respondents-Corporation submitted that the petitioner is not entitled to the relief claimed in the writ petition, he however, submitted that the issue raised in this writ petition, is covered by the judgment of the Division Bench of this Court in W.A. No. 1391 of 1998, dated 19.12.2000. The said writ appeal, which arose out of the judgment of a learned single Judge of this court in W.P. No. 1885 of 1993, dated 09.07.1998, on which the learned counsel for the petitioner placed reliance, was disposed by a Division Bench of this Court, following the judgment of the apex Court in **Union of India v. C.N. Ponnappan** and **Scientific Advisor to Raksha Mantri v. V.M. Joseph**, *inter alia* holding that although the seniority of the petitioner cannot be counted from the date of his initial appointment, he shall be considered for promotion to the next higher post, if he is otherwise eligible therefor.

Inasmuch as it is admitted by the learned Standing Counsel for the respondents-Corporation, that the subject-matter of this writ petition is covered by the judgment of a Division Bench of this Court in W.A. No. 1391 of 1998, dated 19.12.2000, it is appropriate that this writ petition is also disposed of in terms of the observations and directions made therein.

Hence, the writ petition is disposed of in terms of the observations and directions made by a Division Bench of this Court in W.A. No. 1391 of 1998, dated 19.12.2000, and while communicating this order, a copy of the judgment of the Division Bench, shall be annexed. No costs.

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N.V. RAMANA, J.

Date: 28th April, 2006.

KSR